

Review & Proposed Revisions Texas Administrative Code		Tab 7
<p><u>Background:</u></p> <p>State agencies are responsible to review administrative rules adopted by the agency at least once every four years and to readopt rules when there is a continuing need, with revisions as appropriate. TCDD last reviewed and readopted rules in 2012.</p> <p>During the November 2015 meeting, the Council proposed amendments to be posted in the Texas Register for a 30-day public comment period. No public comments were received following the December 3, 2015 posting. The Executive Committee may make a final review of draft revisions and current rules and recommend Council approval of the final adoption of the amendments to TCDD rules.</p> <p>Documents Include:</p> <ul style="list-style-type: none"> ➤ Texas Administrative Code (TAC) – current rules and proposed revisions. The Committee will consider approval of TCDD rules which includes re-adoption of Title 40, Part 21, Chapters 876 and 877 and revisions to Chapter 877. 		
<p><u>Executive Committee</u></p> <p><u>Agenda Item 10.</u></p>	<p><u>Expected Action:</u></p> <p>The Executive Committee will review the information provided and may recommend Council approval.</p>	
<p><u>Council</u></p> <p><u>Agenda Item 11.</u></p>	<p><u>Expected Action:</u></p> <p>The Council will consider Executive Committee recommendations on this subject.</p>	

TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES
ADMINISTRATIVE RULES
TEXAS ADMINISTRATIVE CODE TITLE 40, PART 21

SUMMARY OF PROPOSED AMENDMENTS

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
PART 21. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES
CHAPTER 877. GRANT AWARDS
40 TAC §877.1 AND §877.3

The Texas Council for Developmental Disabilities (Council) proposes an amendment to §877.1 concerning General Provisions.

Elsewhere in this issue of the Texas Register, the Council proposes amendment to §877.3 to add Payment Withhold to Grant Awards.

The purpose of this amendment to this section is to apply consistent equitable consequences to Council award recipients in the event they are found to be non-compliance with reporting requirements. To provide uniform guidance to apply consistent procedures that may result in withholding payment or reduction of payments. This amendment will add Payment Withhold, which may grant a payment withhold pending the result of corrective action, partially restoring funds or grant funds are suspended.

There may be fiscal implication as a result of enforcing these sections as proposed.

Comments on the proposal may be submitted to Martha Cantu, 6201 E. Oltorf, Suite 600, Austin, Texas 78741-7509, or e-mail comments to: martha.cantu@tcdd.texas.gov.

The proposed amendments are authorized under the Texas Human Resources Code, §112.020, which provides authority for the Council to adopt rules as necessary to implement the Council's duties and responsibilities.

The amendments will effect Texas Human Resources Code, Title 7, Chapter 112, Developmental Disabilities.

TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

ADMINISTRATIVE RULES

TEXAS ADMINISTRATIVE CODE TITLE 40, PART 21

Chapter §876 General Provisions

Chapter §877 Grant Awards

**Proposed Amendments
August 2016**

Texas Administrative Code

Title 40 Part 21

Social Services Texas Council for Developmental Disabilities

Chapter §876	General Provisions
§876.1	Definitions
§876.2	Legal Authority
§876.3	Administration
§876.4	Responsibilities of the Council
§876.5	TCDD State Plan
§876.6	Powers and Duties of the Executive Director
§876.7	Committees of the Council
§876.8	Standards of Conduct
§876.9	Charges of Access to Public Records
§876.10	Petition for Adoption of Rules
§876.11	Applicability of Open Meetings Law
§876.12	Alternative Dispute Resolution Process
Chapter §877	Grant Awards
§877.1	General
§877.2	Application and Review Process
§877.3	Payment Withhold , Suspension or Termination of Funding
§877.4	Appeal of Funding Decisions
§877.5	Confidentiality of Records

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 21. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

Chapter 876. GENERAL PROVISIONS

§876.1 Definitions

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Council --Texas Council for Developmental Disabilities.
- (2) Designated State agency -- the State agency designated by the Governor to provide administrative support to the Council.
- (3) Developmental disability -- The term "developmental disability" has the meaning as defined in federal law, the Developmental Disabilities Assistance and Bill of Rights Act as amended (42 USC 6000 et seq).
- (4) Executive director -- Chief administrative officer of the Texas Council for Developmental Disabilities.
- (5) Grant -- An award of financial assistance, including cooperative agreements, in the form of money, property provided in lieu of money, or other financial assistance paid or furnished by the Council to an eligible recipient to carry out a program in accordance with the rules, regulations and guidance provided by the Council.

§876.2 Legal Authority

- (a) These rules are adopted under provisions of the Texas Human Resources Code, Title 40, Chapter 112.
- ~~(b)~~ The following federal laws and regulations are adopted by reference into this part:
 - ~~(1)~~ Developmental Disabilities Assistance and Bill of Rights Act as Amended (U.S.C. 6000 et. seq.); and
 - (2) Developmental Disabilities Program, 45 Code of Federal Regulations, Parts 1385-1387.-

§876.3 Administration

- (a) The Texas Council for Developmental Disabilities is a joint state-federal program designed to assist people with developmental disabilities and their families to participate in the design of and have access to needed community services and supports, and to promote the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.
- (b) The Council performs its responsibilities through staff activities, grants or contracts to public, or nonprofit, or private for-profit organizations and in other ways as determined by the Council to carry out the state plan.
- (c) The Council shall enter into a memorandum of understanding with the designated state agency which sets forth their respective roles;
- (d) The designated state agency carries out the functions set forth in applicable federal and state laws and regulations and the memorandum of understanding with the Council.-

§876.4 Responsibilities of the Council

The Council is an agency within the executive branch, but functions independently within its statutory authority to serve the long-term public interest. The Council is responsible for

establishing the policy framework through which the agency carries out its statutory responsibilities. Specifically, the Council shall:

(1) exercise the authority provided by law to adopt policies and rules governing Council activities;

(2) develop and implement policies that clearly separate the policymaking authority of the Council and the management responsibilities of the executive director and staff of the Council;

(3) approve the state plan and amendments;

(4) serve as an advocate for state and federal legislation, appropriations and policies on behalf of individuals with developmental disabilities as authorized by federal law;

(5) oversee operations of the Council for integrity, effectiveness, and efficiency;

(6) approve personnel policies that provide for the selection, supervision, and evaluation of the executive director and staff

(7) ensure projects and activities comply with all applicable federal and state requirements; and

(8) carry out other responsibilities as provided by Council policies.

§876.5 TCDD State Plan

The Council develops and submits the "TCDD State Plan for Texans with Developmental Disabilities" in a manner consistent with federal law and regulations. The state plan may be revised and updated after public review and comment as provided by the federal requirements. The plan is available from the offices of the Texas Council for Developmental Disabilities.

§876.6 Powers and Duties of the Executive Director

The executive director is responsible for the effective and efficient administration of the affairs of the Council subject to applicable laws and this chapter and under the general direction of the Council. The director shall select, supervise and evaluate staff to implement Council approved activities consistent with policies approved by the Council. The director may delegate responsibilities to Council staff as appropriate.

§876.7 Committees of the Council

The Council may establish standing and special committees of Council members to expedite the work of the Council. Members shall be appointed to Committees in the manner provided by Council policies.

§876.8 Standards of Conduct

(a) Standards of conduct of members and employees of the council are governed by Texas Government Code Annotated, Chapter 572, and by Human Resources Code Chapter 112.0161.

(b) Council members and staff shall adhere to the conflict of interest policy approved by the Council.

§876.9 Charges of Access to Public Records

(a) The charge to any person requesting copies of any public record of the Council will be the charge established by the Buildings and Procurements Commission at 1 TAC §§111.61-111.70.

(b) The Council may reduce or waive these charges at the discretion of the executive director if there is a public benefit.

§876.10 Petition for Rules or Changes to Rules

Any interested person may petition the Council for a rule or rule change by submitting a request to the executive director in a manner and form as directed by the Council, consistent with state law.

§876.11 Applicability of Open Meetings Act

(a) The official minutes of all Council and committee meetings are kept in TCDD staff offices, are posted on the TCDD website, and are available for public review as authorized by the Open Meetings Act.

(b) Opportunities to provide public comments are provided at each Council and committee meeting. The chair of the Council or committee may limit each person presenting public comments or public testimony on any agenda item to a certain number of minutes by announcing the period when comments or testimony are given.

§876.12 Alternative Dispute Resolution

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used by the State and any other party to attempt to resolve any claim for breach of contract made by any party against the State as applicable.

Chapter 877 GRANT AWARDS_

§877.1 General

(a) As authorized by Human Resources Code Title 7, Chapter 112.020 (a)(3), the Council may contract or provide grants to public or private organizations to implement the TCDD State Plan for Texans with Developmental Disabilities, if funds are available.

(b) The Council may solicit proposals from state agencies, non-profit organizations, or private for profit organizations that have organizational expertise related to the requirements of the proposal.

(c) The Council may accept unsolicited proposals or unsolicited ideas for future projects_ consistent with Council policies and procedures.

(d) The Council may develop projects with organizations without competitive proposals as allowed by state and federal requirements and Council policies.

(e) All grantees shall comply with applicable state and federal requirements including the Texas Uniform Grant Management Standards. Office of Management and Budget (OMB) circulars, and Council grants procedures.

(f) Independent audits of grantees are required for each year of funding in accordance with the requirements of OMB Circulars and Texas Uniform Grant Management Standards. Project specific independent reviews and other procedures may be required of grantees not subject to annual independent audit requirements of OMB or UGMS consistent with Council policies. The Council shall reimburse the grantees for the reasonable cost of the required audit activities.

(g) Grant awards shall contain appropriate provisions for program and fiscal monitoring and for collection and submission of evaluation data and related reports.

(h) The Council may limit by policy the amount of Council funds allowed to reimburse indirect costs of projects. Any indirect costs of a grantee above those amounts may be allowed as part of the required non-federal participant share.

(i) **The Council may by policy reduce reimbursements to grantees when required reports or final expenditure reports are not submitted within at least 60 days following the established due date.**

- ~~(j)~~ (j) Donated time and services may be included as a financial match contribution unless otherwise restricted by a specific request for proposals or by state or federal requirements.
- ~~(k)~~ (k) No organization shall receive more than three (3) direct grants from the Council at any time.

§877.2 Application and Review Process

- (a) All requests for proposals will be published in the Texas Register and posted on the Council's website, and a notice will be provided to interested parties.
- (b) Proposal information for each request for proposal shall be available upon request from Council offices and will be made available at the Council's website.
- (c) Proposals received after the closing date will not be considered unless an exception is approved in a manner consistent with Council policies.
- (d) Projects seeking continuation funding may have separate application forms, instructions, and procedures, as determined by Council staff.
- (e) Grants shall be awarded based on guidelines that reflect state and federal mandates. Selection criteria shall be designed to select applications that provide best overall value to the state and to the Council and meet the requirements and intent of the Council as provided in the request for proposals.
- (f) Final approval of organizations to receive grant funding shall be determined by the Council consistent with Council policies.
- (g) Council staff may negotiate with selected applicants to determine the final terms of the award.

§877.3 Payment Withhold, Suspension or Termination of Funding

- (a) If a grantee fails to comply with the terms of the grant, the Council may withhold payment, suspend authority to obligate or receive grant funding pending the result of corrective measures.
- (b) The Council, in its complete discretion, may terminate authority to obligate or receive grant funding prior to the end of the funding period if corrective actions are not taken during the suspension period, or if the deficiency is serious enough to warrant immediate termination.
- (c) A grant, or portion thereof, may also be terminated at the grantee's request by approval of the Council executive director.
- (d) The procedure to request reconsideration of a suspension or termination of funding shall be included in grant award materials.

§877.4 Appeal of Funding Decisions

Appeals may be submitted from applicants for grants who did not receive funding or from grantees whose grants have not been awarded continuation funding. The appeals process adopted by the Council shall be included in grant application materials.

§877.6 Confidentiality of Records

A grantee that provides direct services to individuals under a Council grant must have a system to protect client records from inappropriate disclosure. Disclosure of confidential information must be in accordance with applicable law.